

Conservation Law Foundation • National Wildlife Federation
Vermont Sierra Club • Vermont Natural Resources Council • Smart Growth Vermont
Vermont Public Interest Research Group • Vermont Smart Growth Collaborative
Preservation Trust of Vermont • VT Bicycle & Pedestrian Coalition
Vermont League of Conservation Voters Education Fund

December 10, 2010

Lisa Jackson, Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave. NW
Washington, DC 20460

Re: Vermont Agency of Transportation, Circ-Williston Highway Project

Dear Ms. Jackson:

The Conservation Law Foundation, National Wildlife Federation, Vermont Sierra Club, Vermont Natural Resources Council, Smart Growth Vermont, Vermont Public Interest Research Group, Vermont Smart Growth Collaborative, Preservation Trust of Vermont, VT Bicycle & Pedestrian Coalition, and the Vermont League of Conservation Voters Education Fund support the recent comments of the United States Environmental Protection Agency, Region 1 Administrator to the United States Army Corps of Engineers recommending that the Corps deny the wetlands permit for the Vermont Agency of Transportation, Circ-Williston Highway Project (NAE-2004-2762). We agree that the proposed project is too environmentally damaging to receive a permit under the Clean Water Act and that more effective, lower cost, and less environmentally damaging solutions should be pursued. We urge the EPA, along with other federal and state agencies, to reject the project as planned, and instead advance more responsible transportation solutions for Chittenden County in Vermont.

As noted in the recent EPA comments, the proposed project, which would build a new roadway in sensitive wetlands, is not the least environmentally damaging practicable alternative (LEDPA). Analysis undertaken by the highway agencies as part of the required National Environmental Policy Act (NEPA) review shows that improving existing roadways would effectively improve safety and reduce congestion while having far fewer impacts on important environmental resources.

Environmental Impacts

As EPA noted, the proposed project would “cause severe adverse impacts to aquatic resources,” and “would be the largest fill ever permitted in Vermont, and among the largest ever permitted in

New England.”¹The project area is “within a landscape that includes highly valuable wetland dependent wildlife habitat and rich biodiversity.”²The “secondary adverse impacts” from the project “would likely exceed 800 acres of wetland and upland habitat...”³More than 90% of the direct wetland impacts alone would be avoided by improving existing roadways instead of building the new road.

The project also has significant negative impacts to the water quality of streams and Lake Champlain which are already impaired and do not meet water quality standards. The project has significant and deleterious impacts to wildlife habitat in an area that the EPA recognizes is “among the least disturbed, least fragmented and most valuable habitat in Chittenden County.”⁴

The EPA comments demonstrate that the environmental impacts to aquatic resources, including water quality and important wildlife habitat, are severe and preclude allowing the proposed discharge under 33 U.S.C. § 1344(b). The impacts have been significantly understated by the project proponents in the environmental review they have undertaken. As a result, permitting the proposed project should not be allowed. If the Corps issues a permit, EPA should veto the permit pursuant to its authority under 33 U.S.C. § 1344(c) as the project will have unacceptable adverse effects on water resources. Less damaging alternatives that could provide solutions more quickly should be pursued.

Project Effectiveness and Cost

The proposed project is planned to improve mobility, relieve congestion and improve safety. All of these purposes and needs can be satisfied by improvements with a lower environmental impact than the proposed project. For example, in terms of congestion relief and safety, the proposed project would leave one of the most troubled intersections, Five Corners in Essex Junction, at a level-of-service E.⁵ In contrast, alternatives that improve existing roadways would result in a level-of-service B during peak periods. In terms of mobility, the proposed project would save roughly four minutes of travel time per trip.⁶ This modest time savings is particularly troubling since the overall cost of the proposed project exceeds \$60 million, and is far greater than the cost of meeting transportation needs by improving existing roadways.

Project History and Support for Alternatives

The Circ Highway already has had a long history. In 2004, a Federal Court judge rejected a previous proposal for this project, determining that the highway agencies failed to follow the requirements of the National Environmental Policy Act (NEPA) to evaluate environmental impacts.⁷ In 2005, during the course of the new environmental review, a number of environmental, smart growth and business organizations, operating as the Vermont Smart

¹ EPA Region 1 Section 404(b)(1) Guidelines Evaluation for the Circ-Williston Transportation Project at 16, November 15, 2010

²*Id.* at 8.

³*Id.* at 18.

⁴*Id.* at 7.

⁵Circ-Williston FEIS at Table 5-2.

⁶Circ-Williston FEIS at Table 5-14 and 5-15.

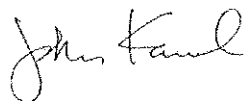
⁷*Senville v. Peters*, 327 F. Supp. 2d 335 (D. Vt. 2004).

Growth Collaborative,⁸ joined together and recommended smart growth alternatives to a new highway.⁹ Individually and collectively, many of our organizations, as well as individuals in Vermont and the region have commented on the project and expressed serious concern about the need, cost and unjustified environmental impacts of building this new roadway. During the NEPA review process, over 300 public comments were submitted on the proposed highway. A vast majority of the comments opposed the construction a new roadway in the Circ corridor.¹⁰

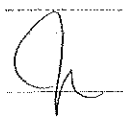
Opportunities for Effective Solutions

In supporting EPA's comments, we support efforts going forward that will solve transportation problems in Chittenden County. We are hopeful the agencies will advance a project that can be permitted, meets our transportation needs, is cost effective, and protects important environmental resources.

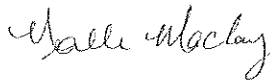
Sincerely,



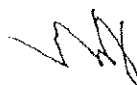
John Kassel
Conservation Law Foundation
62 Summer St., Boston, MA 02110-1016
(802) 223-5992



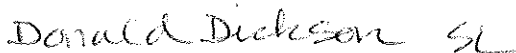
James Murphy
National Wildlife Federation
149 State Street, Montpelier, VT 05602
(802) 229-0650



Noelle MacKay
Smart Growth Vermont &
Vermont Smart Growth Collaborative
Main St., Burlington VT 05401
(802) 864-6310



Paul Bruhn
Preservation Trust of Vermont
104 Church St., Burlington, VT 05401110
(802) 658-6647



Donald Dickson
Vermont Sierra Club
43 Ledgemere St., Burlington, VT 05602
(802) 862-1362



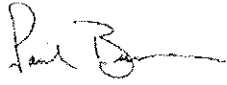
Elizabeth Courtney
Vermont Natural Resources Council
9 Bailey Ave., Montpelier, VT05602
(802) 223-2328

⁸ The Vermont Smart Growth Collaborative is a group of highly respected organizations working together to shape and implement smart growth policies and practices around the state of Vermont. Vermont Smart Growth Collaborative has included the following members: Association of Vermont Conservation Commissions, Conservation Law Foundation, Friends of the Earth, Housing Vermont, Preservation Trust of Vermont, Smart Growth Vermont, Vermont Bicycle and Pedestrian Coalition, Vermont Businesses for Social Responsibility, Vermont Natural Resources Council, Vermont Public Interest Research Group.

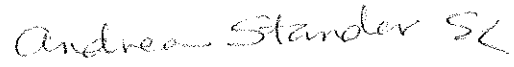
⁹ *Alternatives to the Chittenden County Circumferential Highway* prepared for the Vermont Smart Growth Collaborative by Smart Mobility and Oman Analytics, January 2005 available at:

http://www.vtsmartgrowth.org/fileadmin/files/Collaborative/circ_alternatives.pdf

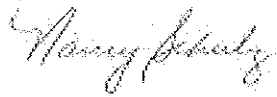
¹⁰ Public comments on Circ-Williston Draft EIS available at: http://www.circeis.org/comments_received.html



Paul Burns
Vermont Public Interest Research Group
141 Main St, Montpelier, VT 05602
(802) 223-5221



Andrea Stander
Vermont League of Conservation Voters
Education Fund
64 Main St., # 27, Montpelier, VT 05602
(802) 224-9090



Nancy Schulz
VT Bicycle & Pedestrian Coalition
PO Box 1234, Montpelier, VT 05601
(802) 225-8904

cc:

H. Curtis Spalding, EPA, Boston, MA
David Dill, VT AOT, Montpelier, VT
Ernest Blais, FHWA, Montpelier, VT
Gerry Solomon, FHWA (DC)
Colonel Philip T. Feir, ACOE, Concord, MA
Meg Gaffney-Smith, ACOE (DC)
Tom Chapman, USFWS, Concord, NH
Robert DeSista, ACOE, Concord, MA
Jonathan Wood, VT ANR, Waterbury, VT
Justin Johnson, VT DEC, Waterbury, VT
Nancy Stoner, EPA, (DC)
David Evans, EPA, (DC)